

in the Journal of the American Medical Association, and a 2004 survey published in Health Affairs, show that patients are more likely to ask their doctor for a specific medication and for the doctor to write a prescription for it, if a patient has seen an advertisement for such medication, even if such medication is not the most clinically appropriate for the patient or if a lower-cost generic medication may be available.

(7) According to a 2011 Congressional Budget Office report, the average number of prescriptions written for newly approved brand-name drugs with direct-to-consumer advertising was 9 times greater than the average number of prescriptions written for newly approved brand-name drugs without direct-to-consumer advertising.

(8) The Centers for Medicare & Medicaid Services is the single largest drug payer in the United States. Between 2016 and 2018, 58 percent of the \$560,000,000,000 in Medicare drug spending was for advertised drugs, and in 2018 alone, the 20 most advertised drugs on television cost Medicare and Medicaid a combined \$34,000,000,000.

(9) A 2021 Government Accountability Office report found that direct-to-consumer advertising may have contributed to increases in Medicare beneficiary use and spending among certain drugs.

(10) The American Medical Association has passed resolutions supporting the requirement for price transparency in any direct-to-consumer advertising, stating that such advertisements on their own “inflate demand for new and more expensive drugs, even when these drugs may not be appropriate”.

(11) A 2019 study published in the Journal of the American Medical Association found that health care consumers dramatically underestimate their out-of-pocket costs for certain expensive medications, but once they learn the wholesale acquisition cost (in this section referred to as the “WAC”) of the product, they are far better able to approximate their out-of-pocket costs.

(12) Approximately half of Americans have high-deductible health plans, under which they often pay the list price of a drug until their insurance deductible is met. All of the top Medicare prescription drug plans use co-insurance rather than fixed-dollar copayments for medications on nonpreferred drug tiers, exposing beneficiaries to WAC prices.

(13) Section 119 of division CC of the Consolidated Appropriations Act, 2021 (Public Law 116-260) requires the Secretary of Health and Human Services to increase the use of real-time benefit tools to lower beneficiary costs. However, there still remains a lack of available pricing tools so patients may not learn of their medication's cost until after being given a prescription for the medication. A 2013 study published in The Oncologist found that one-quarter of all cancer patients chose not to fill a prescription due to cost.

(14) The Federal Government already exercises its authority to oversee certain aspects of direct-to-consumer drug advertising, including required disclosures of information related to side effects, contraindications, and effectiveness.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a lack of transparency in pricing for pharmaceuticals has led to a lack of competition for such pharmaceuticals, as evidenced by a finding by the Department of Health and Human Services that “Consumers of pharmaceuticals are currently missing information that consumers of other products can more readily access, namely the list price of the product, which acts as a point of comparison when judging the reasonableness of prices offered for potential substitute products” (84 Fed. Reg. 20735);

(2) in an age where price information is ubiquitous, the prices of pharmaceuticals remain shrouded in secrecy and limited to those who subscribe to expensive drug price reporting services, which typically include pharmaceutical manufacturers or other health care industry entities and not the general public;

(3) greater insight and transparency into drug prices will help consumers know if they can afford to complete a course of therapy before deciding to initiate that course of therapy;

(4) price shopping is the mark of rational economic behavior, and markets operate more efficiently when consumers have relevant information about a product, including its price, before making an informed decision about whether to buy that product;

(5) providing consumers with basic price information may result in the selection of lesser cost alternatives, all else being equal relative to the patient's care, and is integral to providing adequate competition in the market;

(6) the WAC is a factual, objective, and uncontroversial definition for the list price of a medication, in that it is defined in statute, reflects an understood place in the supply chain, and is at the sole discretion of the manufacturer to set;

(7) there is a governmental interest in ensuring that consumers who seek to purchase pharmaceuticals for purposes of promoting their health and safety understand the objective list price of any pharmaceutical that they are encouraged through advertisements to purchase, which allows consumers to make informed purchasing decisions; and

(8) there is a governmental interest in mitigating wasteful expenditures and promoting the efficient administration of the Medicare program by slowing the growth of Federal spending on prescription drugs.

SEC. 3. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR DRUGS AND BIOLOGICALS INCLUDE AN APPROPRIATE DISCLOSURE OF PRICING INFORMATION.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

“SEC. 1150D. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR DRUGS AND BIOLOGICALS INCLUDE AN APPROPRIATE DISCLOSURE OF PRICING INFORMATION.

“(a) REQUIREMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall require that each direct-to-consumer advertisement for a drug or biological for which payment is available under title XVIII or XIX and which is required to include the information relating to side effects, contraindications, and effectiveness described in section 202.1(e)(1) of title 21, Code of Federal Relations (or any successor regulation) also include an appropriate disclosure of pricing information, as described in subsection (b), with respect to such drug or biological.

“(2) EXEMPTION.—The requirement under paragraph (1) shall not apply to a drug or biological for which the wholesale acquisition cost for a 30-day supply of (or, if applicable, a typical course of treatment for) such drug or biological is less than \$35.

“(b) APPROPRIATE DISCLOSURE OF PRICING INFORMATION.—For the purposes of subsection (a), an appropriate disclosure of pricing information, with respect to a drug or biological, shall—

“(1) disclose of the wholesale acquisition cost for a 30-day supply of (or, if applicable, a typical course of treatment for) such drug or biological; and

“(2) be presented clearly and conspicuously.

“(c) RULEMAKING.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Administrator of the Centers for Medicare and Medicaid Services, shall promulgate final regulations to carry out this section, including—

“(1) the visual and audio components required to communicate the wholesale acquisition cost in the appropriate manner for the medium of the advertisement;

“(2) the reasonable amount of time a manufacturer has to update any direct-to-consumer advertisement to reflect any change to the wholesale acquisition cost of the advertised drug or biological; and

“(3) the way in which a manufacturer may include a brief statement explaining that certain consumers may pay a different amount depending on their insurance coverage.

“(d) SANCTIONS.—Any manufacturer of a drug or biological, or an agent of such manufacturer, that violates the requirement of this section may be subject to a civil money penalty of not more than \$100,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the preceding sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(e) PUBLIC REPORTING SYSTEM.—In order to enforce the requirement under this section, the Secretary may establish a public reporting system—

“(1) to build awareness of such requirement; and

“(2) allow for reporting of manufacturers that fail to comply with such requirement.

“(f) DEFINITIONS.—In this section:

“(1) DRUG AND BIOLOGICAL.—The terms ‘drug’ and ‘biological’ have the meaning given such terms in section 1861(t).

“(2) WHOLESALE ACQUISITION COST.—The term ‘wholesale acquisition cost’ has the meaning given such term in section 1847A(c)(6)(B).

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purposes of carrying out this section.”.

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. BOOKER, Mr. OSSOFF, Ms. BALDWIN, Mr. VAN HOLLEN, Mr. WICKER, Ms. LUMMIS, and Mr. BROWN):

S. 1251. A bill to reform sentencing laws and correctional institutions, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “First Step Implementation Act of 2023”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SENTENCING REFORM

Sec. 101. Application of First Step Act.

Sec. 102. Modifying safety valve for drug offenses.

TITLE II—CORRECTIONS REFORM

Sec. 201. Parole for juveniles.

Sec. 202. Juvenile sealing and expungement.

Sec. 203. Ensuring accuracy of Federal criminal records.

TITLE I—SENTENCING REFORM

SEC. 101. APPLICATION OF FIRST STEP ACT.

(a) DEFINITIONS.—In this section—

(1) the term “covered offense” means—

(A) a violation of a Federal criminal statute, the statutory penalties for which were modified by section 401 or 403 of the First Step Act of 2018 (Public Law 115–391; 132 Stat. 5220), that was committed on or before December 21, 2018; or

(B) a violation of a Federal criminal statute, the statutory penalties for which are modified by subsection (b) of this section; and

(2) the term “serious violent felony” has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) AMENDMENTS.—

(1) IN GENERAL.—

(A) CONTROLLED SUBSTANCES ACT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (C), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”;;

(II) in subparagraph (D), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”; and

(III) in subparagraph (E)(ii), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”;;

(ii) in paragraph (2), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”; and

(iii) in paragraph (3), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”.

(B) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”.

(2) PENDING CASES.—This subsection, and the amendments made by this subsection, shall apply to any sentence imposed on or after the date of enactment of this Act, regardless of when the offense was committed.

(c) DEFENDANTS PREVIOUSLY SENTENCED.—A court that imposed a sentence for a covered offense may, on motion of the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court, impose a reduced sentence as if sections 401 and 403 of the First Step Act of 2018 (Public Law 115–391; 132 Stat. 5220) and the amendments made by subsection (b) of this section were in effect at the time the covered offense was committed if, after considering the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person, the community, or any crime victims, and the post-sentencing conduct of the defendant, the sentencing court finds a reduction is consistent with the amendments made by section 401 or 403 of the First Step Act of 2018 (Public Law 115–391; 132 Stat. 5220) or with subsection (b) of this section.

(d) CRIME VICTIMS.—Any proceeding under this section shall be subject to section 3771 of title 18, United States Code (commonly known as the “Crime Victims’ Rights Act”).

(e) REQUIREMENT.—For each motion filed under subsection (c), the Government shall conduct a particularized inquiry of the facts and circumstances of the original sentencing of the defendant in order to assess whether a reduction in sentence would be consistent with the First Step Act of 2018 (Public Law 115–391; 132 Stat. 5194) and the amendments made by that Act, including a review of any prior criminal conduct or any other relevant

information from Federal, State, and local authorities.

SEC. 102. MODIFYING SAFETY VALVE FOR DRUG OFFENSES.

(a) AMENDMENTS.—Section 3553 of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

“(g) INADEQUACY OF CRIMINAL HISTORY.—

“(1) IN GENERAL.—If subsection (f) does not apply to a defendant because the defendant does not meet the requirements described in subsection (f)(1) (relating to criminal history), the court may, upon prior notice to the Government, waive subsection (f)(1) if the court specifies in writing the specific reasons why reliable information indicates that excluding the defendant pursuant to subsection (f)(1) substantially overrepresents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes.

“(2) PROHIBITION.—This subsection shall not apply to any defendant who has been convicted of a serious drug felony or a serious violent felony, as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

TITLE II—CORRECTIONS REFORM

SEC. 201. PAROLE FOR JUVENILES.

(a) IN GENERAL.—Chapter 403 of title 18, United States Code, is amended by inserting after section 5032 the following:

“§ 5032A. Modification of an imposed term of imprisonment for violations of law committed prior to age 18

“(a) IN GENERAL.—Notwithstanding any other provision of law, a court may reduce a term of imprisonment imposed upon a defendant convicted as an adult for an offense committed and completed before the defendant attained 18 years of age if—

“(1) the defendant has served not less than 20 years in custody for the offense; and

“(2) the court finds, after considering the factors set forth in subsection (c), that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

“(b) SUPERVISED RELEASE.—Any defendant whose sentence is reduced pursuant to subsection (a) shall be ordered to serve a period of supervised release of not less than 5 years following release from imprisonment. The conditions of supervised release and any modification or revocation of the term of supervise release shall be in accordance with section 3583.

“(c) FACTORS AND INFORMATION TO BE CONSIDERED IN DETERMINING WHETHER TO MODIFY A TERM OF IMPRISONMENT.—The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a), shall consider—

“(1) the factors described in section 3553(a), including the nature of the offense and the history and characteristics of the defendant;

“(2) the age of the defendant at the time of the offense;

“(3) a report and recommendation of the Bureau of Prisons, including information on whether the defendant has substantially complied with the rules of each institution in which the defendant has been confined and whether the defendant has completed any educational, vocational, or other prison program, where available;

“(4) a report and recommendation of the United States attorney for any district in which an offense for which the defendant is imprisoned was prosecuted;

“(5) whether the defendant has demonstrated maturity, rehabilitation, and a fit-

ness to reenter society sufficient to justify a sentence reduction;

“(6) any statement, which may be presented orally or otherwise, by any victim of an offense for which the defendant is imprisoned or by a family member of the victim if the victim is deceased;

“(7) any report from a physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional;

“(8) the family and community circumstances of the defendant at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

“(9) the extent of the role of the defendant in the offense and whether, and to what extent, an adult was involved in the offense;

“(10) the diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing juveniles to the otherwise applicable term of imprisonment; and

“(11) any other information the court determines relevant to the decision of the court.

“(d) LIMITATION ON APPLICATIONS PURSUANT TO THIS SECTION.—

“(1) SECOND APPLICATION.—Not earlier than 5 years after the date on which an order entered by a court on an initial application under this section becomes final, a court shall entertain a second application by the same defendant under this section.

“(2) FINAL APPLICATION.—Not earlier than 5 years after the date on which an order entered by a court on a second application under paragraph (1) becomes final, a court shall entertain a final application by the same defendant under this section.

“(3) PROHIBITION.—A court may not entertain an application filed after an application filed under paragraph (2) by the same defendant.

“(e) PROCEDURES.—

“(1) NOTICE.—The Bureau of Prisons shall provide written notice of this section to—

“(A) any defendant who has served not less than 19 years in prison for an offense committed and completed before the defendant attained 18 years of age for which the defendant was convicted as an adult; and

“(B) the sentencing court, the United States attorney, and the Federal Public Defender or Executive Director of the Community Defender Organization for the judicial district in which the sentence described in subparagraph (A) was imposed.

“(2) CRIME VICTIMS’ RIGHTS.—Upon receiving notice under paragraph (1), the United States attorney shall provide any notifications required under section 3771.

“(3) APPLICATION.—

“(A) IN GENERAL.—An application for a sentence reduction under this section shall be filed as a motion to reduce the sentence of the defendant and may include affidavits or other written material.

“(B) REQUIREMENT.—A motion to reduce a sentence under this section shall be filed with the sentencing court and a copy shall be served on the United States attorney for the judicial district in which the sentence was imposed.

“(4) EXPANDING THE RECORD; HEARING.—

“(A) EXPANDING THE RECORD.—After the filing of a motion to reduce a sentence under this section, the court may direct the parties to expand the record by submitting additional written materials relating to the motion.

“(B) HEARING.—

“(i) IN GENERAL.—The court shall conduct a hearing on the motion, at which the defendant and counsel for the defendant shall be given the opportunity to be heard.

“(ii) EVIDENCE.—In a hearing under this section, the court may allow parties to present evidence.

“(iii) DEFENDANT’S PRESENCE.—At a hearing under this section, the defendant shall be present unless the defendant waives the right to be present. The requirement under this clause may be satisfied by the defendant appearing by video teleconference.

“(iv) COUNSEL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant for proceedings under this section, including any appeal, unless the defendant waives the right to counsel.

“(v) FINDINGS.—The court shall state in open court, and file in writing, the reasons for granting or denying a motion under this section.

“(C) APPEAL.—The Government or the defendant may file a notice of appeal in the district court for review of a final order under this section. The time limit for filing such appeal shall be governed by rule 4(a) of the Federal Rules of Appellate Procedure.

“(f) EDUCATIONAL AND REHABILITATIVE PROGRAMS.—A defendant who is convicted and sentenced as an adult for an offense committed and completed before the defendant attained 18 years of age may not be deprived of any educational, training, or rehabilitative program that is otherwise available to the general prison population.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 403 of title 18, United States Code, is amended by inserting after the item relating to section 5032 the following:

“5032A. Modification of an imposed term of imprisonment for violations of law committed prior to age 18.”.

(c) APPLICABILITY.—The amendments made by this section shall apply to any conviction entered before, on, or after the date of enactment of this Act.

SEC. 202. JUVENILE SEALING AND EXPUNGEMENT.

(a) PURPOSE.—The purpose of this section is to—

(1) protect children and adults against damage stemming from their juvenile acts and subsequent juvenile delinquency records, including law enforcement, arrest, and court records; and

(2) prevent the unauthorized use or disclosure of confidential juvenile delinquency records and any potential employment, financial, psychological, or other harm that would result from such unauthorized use or disclosure.

(b) DEFINITIONS.—Section 5031 of title 18, United States Code, is amended to read as follows:

“§ 5031. Definitions

“In this chapter—

“(1) the term ‘adjudication’ means a determination by a judge that a person committed an act of juvenile delinquency;

“(2) the term ‘conviction’ means a judgment or disposition in criminal court against a person following a finding of guilt by a judge or jury;

“(3) the term ‘destroy’ means to render a file unreadable, whether paper, electronic, or otherwise stored, by shredding, pulverizing, pulping, incinerating, overwriting, reformatting the media, or other means;

“(4) the term ‘expunge’ means to destroy a record and obliterate the name of the person to whom the record pertains from each official index or public record;

“(5) the term ‘expungement hearing’ means a hearing held under section 5045(b)(2)(B);

“(6) the term ‘expungement petition’ means a petition for expungement filed under section 5045(b);

“(7) the term ‘high-risk, public trust position’ means a position designated as a public trust position under section 731.106(b) of title 5, Code of Federal Regulations, or any successor regulation;

“(8) the term ‘juvenile’ means—

“(A) except as provided in subparagraph (B), a person who has not attained the age of 18 years; and

“(B) for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained the age of 21 years;

“(9) the term ‘juvenile delinquency’ means the violation of a law of the United States committed by a person before attaining the age of 18 years which would have been a crime if committed by an adult, or a violation by such a person of section 922(x);

“(10) the term ‘juvenile nonviolent offense’ means—

“(A) in the case of an arrest or an adjudication that is dismissed or finds the juvenile to be not delinquent, an act of juvenile delinquency that is not—

“(i) a criminal homicide, forcible rape or any other sex offense (as defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911)), kidnapping, aggravated assault, robbery, burglary of an occupied structure, arson, or a drug trafficking crime in which a firearm was used; or

“(ii) a Federal crime of terrorism (as defined in section 2332b(g)); and

“(B) in the case of an adjudication that finds the juvenile to be delinquent, an act of juvenile delinquency that is not—

“(i) described in clause (i) or (ii) of subparagraph (A); or

“(ii) a misdemeanor crime of domestic violence (as defined in section 921(a)(33));

“(11) the term ‘juvenile record’—

“(A) means a record maintained by a court, the probation system, a law enforcement agency, or any other government agency, of the juvenile delinquency proceedings of a person;

“(B) includes—

“(i) a juvenile legal file, including a formal document such as a petition, notice, motion, legal memorandum, order, or decree;

“(ii) a social record, including—

“(I) a record of a probation officer;

“(II) a record of any government agency that keeps records relating to juvenile delinquency;

“(III) a medical record;

“(IV) a psychiatric or psychological record;

“(V) a birth certificate;

“(VI) an education record, including an individualized education plan;

“(VII) a detention record;

“(VIII) demographic information that identifies a juvenile or the family of a juvenile; or

“(IX) any other record that includes personally identifiable information that may be associated with a juvenile delinquency proceeding, an act of juvenile delinquency, or an alleged act of juvenile delinquency; and

“(iii) a law enforcement record, including a photograph or a State criminal justice information system record; and

“(C) does not include—

“(i) fingerprints; or

“(ii) a DNA sample;

“(12) the term ‘petitioner’ means a person who files an expungement petition or a sealing petition;

“(13) the term ‘seal’ means—

“(A) to close a record from public viewing so that the record cannot be examined except by court order; and

“(B) to physically seal the record shut and label the record ‘SEALED’ or, in the case of

an electronic record, the substantive equivalent;

“(14) the term ‘sealing hearing’ means a hearing held under section 5044(b)(2)(B); and

“(15) the term ‘sealing petition’ means a petition for a sealing order filed under section 5044(b).”.

(c) CONFIDENTIALITY.—Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a), in the flush text following paragraph (6), by inserting after “bonding,” the following: “participation in an educational system,”; and

(2) in subsection (b), by striking “District courts exercising jurisdiction over any juvenile” and inserting the following: “Not later than 7 days after the date on which a district court exercises jurisdiction over a juvenile, the district court”.

(d) SEALING; EXPUNGEMENT.—

(1) IN GENERAL.—Chapter 403 of title 18, United States Code, is amended by adding at the end the following:

“§ 5044. Sealing

“(a) AUTOMATIC SEALING OF NONVIOLENT OFFENSES.—

“(1) IN GENERAL.—Three years after the date on which a person who is adjudicated delinquent under this chapter for a juvenile nonviolent offense completes every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense, the court shall order the sealing of each juvenile record or portion thereof that relates to the offense if the person—

“(A) has not been convicted of a crime or adjudicated delinquent for an act of juvenile delinquency since the date of the disposition; and

“(B) is not engaged in active criminal court proceedings or juvenile delinquency proceedings.

“(2) AUTOMATIC NATURE OF SEALING.—The order of sealing under paragraph (1) shall require no action by the person whose juvenile records are to be sealed.

“(3) NOTICE OF AUTOMATIC SEALING.—A court that orders the sealing of a juvenile record of a person under paragraph (1) shall, in writing, inform the person of the sealing and the benefits of sealing the record.

“(b) PETITIONING FOR EARLY SEALING OF NONVIOLENT OFFENSES.—

“(1) RIGHT TO FILE SEALING PETITION.—

“(A) IN GENERAL.—During the 3-year period beginning on the date on which a person who is adjudicated delinquent under this chapter for a juvenile nonviolent offense completes every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense, the person may petition the court to seal the juvenile records that relate to the offense, unless the person—

“(i) has been convicted of a crime or adjudicated delinquent for an act of juvenile delinquency since the date of the disposition; or

“(ii) is engaged in active criminal court proceedings or juvenile delinquency proceedings.

“(B) NOTICE OF OPPORTUNITY TO FILE PETITION.—If a person is adjudicated delinquent for a juvenile nonviolent offense, the court in which the person is adjudicated delinquent shall, in writing, inform the person of the potential eligibility of the person to file a sealing petition with respect to the offense upon completing every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense, and the necessary procedures for filing the sealing petition—

“(i) on the date on which the individual is adjudicated delinquent; and

“(ii) on the date on which the individual has completed every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense.

“(2) PROCEDURES.—

“(A) NOTIFICATION TO PROSECUTOR.—If a person files a sealing petition with respect to a juvenile nonviolent offense, the court in which the petition is filed shall provide notice of the petition—

“(i) to the Attorney General; and

“(ii) upon the request of the petitioner, to any other individual that the petitioner determines may testify as to—

“(I) the conduct of the petitioner since the date of the offense; or

“(II) the reasons that the sealing order should be entered.

“(B) HEARING.—

“(i) IN GENERAL.—If a person files a sealing petition, the court shall—

“(I) except as provided in clause (iii), conduct a hearing in accordance with clause (ii); and

“(II) determine whether to enter a sealing order for the person in accordance with subparagraph (C).

“(ii) OPPORTUNITY TO TESTIFY AND OFFER EVIDENCE.—

“(I) PETITIONER.—The petitioner may testify or offer evidence at the sealing hearing in support of sealing.

“(II) PROSECUTOR.—The Attorney General may send a representative to testify or offer evidence at the sealing hearing in support of or against sealing.

“(III) OTHER INDIVIDUALS.—An individual who receives notice under subparagraph (A)(ii) may testify or offer evidence at the sealing hearing as to the issues described in subclauses (I) and (II) of that subparagraph.

“(iii) WAIVER OF HEARING.—If the petitioner and the Attorney General so agree, the court shall make a determination under subparagraph (C) without a hearing.

“(C) BASIS FOR DECISION.—The court shall determine whether to grant the sealing petition after considering—

“(i) the sealing petition and any documents in the possession of the court;

“(ii) all the evidence and testimony presented at the sealing hearing, if such a hearing is conducted;

“(iii) the best interests of the petitioner;

“(iv) the age of the petitioner during his or her contact with the court or any law enforcement agency;

“(v) the nature of the juvenile nonviolent offense;

“(vi) the disposition of the case;

“(vii) the manner in which the petitioner participated in any court-ordered rehabilitative programming or supervised services;

“(viii) the length of the time period during which the petitioner has been without contact with any court or law enforcement agency;

“(ix) whether the petitioner has had any criminal or juvenile delinquency involvement since the disposition of the juvenile delinquency proceeding; and

“(x) the adverse consequences the petitioner may suffer if the petition is not granted.

“(D) WAITING PERIOD AFTER DENIAL.—If the court denies a sealing petition, the petitioner may not file a new sealing petition with respect to the same juvenile nonviolent offense until the date that is 2 years after the date of the denial.

“(E) UNIVERSAL FORM.—The Director of the Administrative Office of the United States Courts shall create a universal form, available over the internet and in paper form, that an individual may use to file a sealing petition.

“(F) NO FEE FOR INDIGENT PETITIONERS.—If the court determines that the petitioner is indigent, there shall be no cost for filing a sealing petition.

“(G) REPORTING.—Not later than 2 years after the date of enactment of this section, and each year thereafter, the Director of the Administrative Office of the United States Courts shall issue a public report that—

“(i) describes—

“(I) the number of sealing petitions granted and denied under this subsection; and

“(II) the number of instances in which the Attorney General supported or opposed a sealing petition;

“(ii) includes any supporting data that the Director determines relevant and that does not name any petitioner; and

“(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of the offense.

“(H) PUBLIC DEFENDER ELIGIBILITY.—

“(i) PETITIONERS UNDER AGE 18.—The district court shall appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent a petitioner for purposes of this subsection if the petitioner is less than 18 years of age.

“(ii) PETITIONERS AGE 18 AND OLDER.—

“(I) DISCRETION OF COURT.—In the case of a petitioner who is not less than 18 years of age, the district court may, in its discretion, appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent the petitioner for purposes of this subsection.

“(II) CONSIDERATIONS.—In determining whether to appoint counsel under subclause (I), the court shall consider—

“(aa) the anticipated complexity of the sealing hearing, including the number and type of witnesses called to advocate against the sealing of the records of the petitioner; and

“(bb) the potential for adverse testimony by a victim or a representative of the Attorney General.

“(C) EFFECT OF SEALING ORDER.—

“(1) PROTECTION FROM DISCLOSURE.—Except as provided in paragraphs (3) and (4), if a court orders the sealing of a juvenile record of a person under subsection (a) or (b) with respect to a juvenile nonviolent offense, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events the records of which are ordered sealed.

“(2) VERIFICATION OF SEALING.—If a court orders the sealing of a juvenile record under subsection (a) or (b) with respect to a juvenile nonviolent offense, the court shall—

“(A) send a copy of the sealing order to each entity or person known to the court that possesses a record relating to the offense, including each—

“(i) law enforcement agency; and

“(ii) public or private correctional or detention facility;

“(B) in the sealing order, require each entity or person described in subparagraph (A) to—

“(i) seal the record; and

“(ii) submit a written certification to the court, under penalty of perjury, that the entity or person has sealed each paper and electronic copy of the record;

“(C) seal each paper and electronic copy of the record in the possession of the court; and

“(D) after receiving a written certification from each entity or person under subparagraph (B)(ii), notify the petitioner that each entity or person described in subparagraph (A) has sealed each paper and electronic copy of the record.

“(3) LAW ENFORCEMENT ACCESS TO SEALED RECORDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a law enforcement agency may access a sealed juvenile record in the possession of the agency or another law enforcement agency solely—

“(i) to determine whether the person who is the subject of the record is a nonviolent offender eligible for a first-time-offender diversion program;

“(ii) for investigatory or prosecutorial purposes; or

“(iii) for a background check that relates to—

“(I) law enforcement employment; or

“(II) any position that a Federal agency designates as a—

“(aa) national security position; or

“(bb) high-risk, public trust position.

“(B) TRANSITION PERIOD.—During the 1-year period beginning on the date on which a court orders the sealing of a juvenile record under this section, a law enforcement agency may, for law enforcement purposes, access the record if the record is in the possession of the agency or another law enforcement agency.

“(4) PROHIBITION ON DISCLOSURE.—

“(A) PROHIBITION.—Except as provided in subparagraph (C), it shall be unlawful to intentionally make or attempt to make an unauthorized disclosure of any information from a sealed juvenile record in violation of this section.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined under this title, imprisoned for not more than 1 year, or both.

“(C) EXCEPTIONS.—

“(i) BACKGROUND CHECKS.—In the case of a background check for law enforcement employment or for any employment that requires a government security clearance—

“(I) a person who is the subject of a juvenile record sealed under this section shall disclose the contents of the record; and

“(II) a law enforcement agency that possesses a juvenile record sealed under this section—

“(aa) may disclose the contents of the record; and

“(bb) if the agency obtains or is subject to a court order authorizing disclosure of the record, may disclose the record.

“(ii) DISCLOSURE TO ARMED FORCES.—A person, including a law enforcement agency that possesses a juvenile record sealed under this section, may disclose information from a juvenile record sealed under this section to the Secretaries of the military departments (or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy) for the purpose of vetting an enlistment or commission, or with regard to any member of the Armed Forces.

“(iii) CRIMINAL AND JUVENILE PROCEEDINGS.—A prosecutor or other law enforcement officer may disclose information from a juvenile record sealed under this section, and a person who is the subject of a juvenile record sealed under this section may be required to testify or otherwise disclose information about the record, in a criminal or other proceeding if such disclosure is required by the Constitution of the United States, the constitution of a State, or a Federal or State statute or rule.

“(iv) AUTHORIZATION FOR PERSON TO DISCLOSE OWN RECORD.—A person who is the subject of a juvenile record sealed under this section may choose to disclose the record.

“(d) LIMITATION RELATING TO SUBSEQUENT INCIDENTS.—

“(1) AFTER FILING AND BEFORE PETITION GRANTED.—If, after the date on which a person files a sealing petition with respect to a

juvenile offense and before the court determines whether to grant the petition, the person is convicted of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active criminal court proceedings or juvenile delinquency proceedings, the court shall deny the petition.

“(2) AFTER PETITION GRANTED.—If, on or after the date on which a court orders the sealing of a juvenile record of a person under subsection (b), the person is convicted of a crime or adjudicated delinquent for an act of juvenile delinquency—

“(A) the court shall—

“(i) vacate the order; and

“(ii) notify the person who is the subject of the juvenile record, and each entity or person described in subsection (c)(2)(A), that the order has been vacated; and

“(B) the record shall no longer be sealed.

“(e) INCLUSION OF STATE JUVENILE DELINQUENCY ADJUDICATIONS AND PROCEEDINGS.—For purposes of subparagraphs (A) and (B) of subsection (a)(1), clauses (i) and (ii) of subsection (b)(1)(A), subsection (b)(2)(C)(ix), and paragraphs (1) and (2) of subsection (d), the term ‘juvenile delinquency’ includes the violation of a law of a State committed by a person before attaining the age of 18 years which would have been a crime if committed by an adult.

“§ 5045. Expungement

“(a) AUTOMATIC EXPUNGEMENT OF CERTAIN RECORDS.—

“(1) ATTORNEY GENERAL MOTION.—

“(A) NONVIOLENT OFFENSES COMMITTED BEFORE A PERSON TURNED 15.—If a person is adjudicated delinquent under this chapter for a juvenile nonviolent offense committed before the person attained 15 years of age and completes every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense before attaining 18 years of age, on the date on which the person attains 18 years of age, the Attorney General shall file a motion in the district court of the United States in which the person was adjudicated delinquent requesting that each juvenile record of the person that relates to the offense be expunged.

“(B) ARRESTS.—If a juvenile is arrested by a Federal law enforcement agency for a juvenile nonviolent offense for which a juvenile delinquency proceeding is not instituted under this chapter, and for which the United States does not proceed against the juvenile as an adult in a district court of the United States, the Attorney General shall file a motion in the district court of the United States that would have had jurisdiction of the proceeding requesting that each juvenile record relating to the arrest be expunged.

“(C) EXPUNGEMENT ORDER.—Upon the filing of a motion in a district court of the United States with respect to a juvenile nonviolent offense under subparagraph (A) or an arrest for a juvenile nonviolent offense under subparagraph (B), the court shall grant the motion and order that each juvenile record relating to the offense or arrest, as applicable, be expunged.

“(2) DISMISSED CASES.—If a district court of the United States dismisses an information with respect to a juvenile under this chapter or finds a juvenile not to be delinquent in a juvenile delinquency proceeding under this chapter, the court shall concurrently order that each juvenile record relating to the applicable proceeding be expunged.

“(3) AUTOMATIC NATURE OF EXPUNGEMENT.—An order of expungement under paragraph (1)(C) or (2) shall not require any action by the person whose records are to be expunged.

“(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—A court that orders the expungement of a juvenile record of a person under paragraph

(1)(C) or (2) shall, in writing, inform the person of the expungement and the benefits of expunging the record.

“(b) PETITIONING FOR EXPUNGEMENT OF NONVIOLENT OFFENSES.—

“(1) IN GENERAL.—A person who is adjudicated delinquent under this chapter for a juvenile nonviolent offense committed on or after the date on which the person attained 15 years of age may petition the court in which the proceeding took place to order the expungement of the juvenile record that relates to the offense unless the person—

“(A) has been convicted of a crime or adjudicated delinquent for an act of juvenile delinquency since the date of the disposition;

“(B) is engaged in active criminal court proceedings or juvenile delinquency proceedings; or

“(C) has had not less than 2 adjudications of delinquency previously expunged under this section.

“(2) PROCEDURES.—

“(A) NOTIFICATION OF PROSECUTOR AND VICTIMS.—If a person files an expungement petition with respect to a juvenile nonviolent offense, the court in which the petition is filed shall provide notice of the petition—

“(i) to the Attorney General; and

“(ii) upon the request of the petitioner, to any other individual that the petitioner determines may testify as to—

“(I) the conduct of the petitioner since the date of the offense; or

“(II) the reasons that the expungement order should be entered.

“(B) HEARING.—

“(i) IN GENERAL.—If a person files an expungement petition, the court shall—

“(I) except as provided in clause (iii), conduct a hearing in accordance with clause (ii); and

“(II) determine whether to enter an expungement order for the person in accordance with subparagraph (C).

“(ii) OPPORTUNITY TO TESTIFY AND OFFER EVIDENCE.—

“(I) PETITIONER.—The petitioner may testify or offer evidence at the expungement hearing in support of expungement.

“(II) PROSECUTOR.—The Attorney General may send a representative to testify or offer evidence at the expungement hearing in support of or against expungement.

“(III) OTHER INDIVIDUALS.—An individual who receives notice under subparagraph (A)(ii) may testify or offer evidence at the expungement hearing as to the issues described in subclauses (I) and (II) of that subparagraph.

“(iii) WAIVER OF HEARING.—If the petitioner and the Attorney General so agree, the court shall make a determination under subparagraph (C) without a hearing.

“(C) BASIS FOR DECISION.—The court shall determine whether to grant an expungement petition after considering—

“(i) the petition and any documents in the possession of the court;

“(ii) all the evidence and testimony presented at the expungement hearing, if such a hearing is conducted;

“(iii) the best interests of the petitioner;

“(iv) the age of the petitioner during his or her contact with the court or any law enforcement agency;

“(v) the nature of the juvenile nonviolent offense;

“(vi) the disposition of the case;

“(vii) the manner in which the petitioner participated in any court-ordered rehabilitative programming or supervised services;

“(viii) the length of the time period during which the petitioner has been without contact with any court or any law enforcement agency;

“(ix) whether the petitioner has had any criminal or juvenile delinquency involve-

ment since the disposition of the juvenile delinquency proceeding; and

“(x) the adverse consequences the petitioner may suffer if the petition is not granted.

“(D) WAITING PERIOD AFTER DENIAL.—If the court denies an expungement petition, the petitioner may not file a new expungement petition with respect to the same offense until the date that is 2 years after the date of the denial.

“(E) UNIVERSAL FORM.—The Director of the Administrative Office of the United States Courts shall create a universal form, available over the internet and in paper form, that an individual may use to file an expungement petition.

“(F) NO FEE FOR INDIGENT PETITIONERS.—If the court determines that the petitioner is indigent, there shall be no cost for filing an expungement petition.

“(G) REPORTING.—Not later than 2 years after the date of enactment of this section, and each year thereafter, the Director of the Administrative Office of the United States Courts shall issue a public report that—

“(i) describes—

“(I) the number of expungement petitions granted and denied under this subsection; and

“(II) the number of instances in which the Attorney General supported or opposed an expungement petition;

“(ii) includes any supporting data that the Director determines relevant and that does not name any petitioner; and

“(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of the offense.

“(H) PUBLIC DEFENDER ELIGIBILITY.—

“(i) PETITIONERS UNDER AGE 18.—The district court shall appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent a petitioner for purposes of this subsection if the petitioner is less than 18 years of age.

“(ii) PETITIONERS AGE 18 AND OLDER.—

“(I) DISCRETION OF COURT.—In the case of a petitioner who is not less than 18 years of age, the district court may, in its discretion, appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent the petitioner for purposes of this subsection.

“(II) CONSIDERATIONS.—In determining whether to appoint counsel under subclause (I), the court shall consider—

“(aa) the anticipated complexity of the expungement hearing, including the number and type of witnesses called to advocate against the expungement of the records of the petitioner; and

“(bb) the potential for adverse testimony by a victim or a representative of the Attorney General.

“(c) EFFECT OF EXPUNGED JUVENILE RECORD.—

“(1) PROTECTION FROM DISCLOSURE.—Except as provided in paragraphs (4) through (8), if a court orders the expungement of a juvenile record of a person under subsection (a) or (b) with respect to a juvenile nonviolent offense, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events the records of which are ordered expunged.

“(2) VERIFICATION OF EXPUNGEMENT.—If a court orders the expungement of a juvenile record under subsection (a) or (b) with respect to a juvenile nonviolent offense, the court shall—

“(A) send a copy of the expungement order to each entity or person known to the court that possesses a record relating to the offense, including each—

“(i) law enforcement agency; and

“(i) public or private correctional or detention facility;

“(B) in the expungement order—

“(i) require each entity or person described in subparagraph (A) to—

“(I) seal the record for 1 year and, during that 1-year period, apply paragraphs (3) and (4) of section 5044(c) with respect to the record;

“(II) on the date that is 1 year after the date of the order, destroy the record unless a subsequent incident described in subsection (d)(2) occurs; and

“(III) submit a written certification to the court, under penalty of perjury, that the entity or person has destroyed each paper and electronic copy of the record; and

“(ii) explain that if a subsequent incident described in subsection (d)(2) occurs, the order shall be vacated and the record shall no longer be sealed;

“(C) on the date that is 1 year after the date of the order, destroy each paper and electronic copy of the record in the possession of the court unless a subsequent incident described in subsection (d)(2) occurs; and

“(D) after receiving a written certification from each entity or person under subparagraph (B)(i)(III), notify the petitioner that each entity or person described in subparagraph (A) has destroyed each paper and electronic copy of the record.

“(3) REPLY TO INQUIRIES.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record of a person under this section, in the case of an inquiry relating to the juvenile record, the court, each law enforcement officer, any agency that provided treatment or rehabilitation services to the person, and the person (except as provided in paragraphs (4) through (8)) shall reply to the inquiry that no such juvenile record exists.

“(4) CIVIL ACTIONS.—

“(A) IN GENERAL.—On and after the date on which a court orders the expungement of a juvenile record of a person under this section, if the person brings an action against a law enforcement agency that arrested, or participated in the arrest of, the person for the offense to which the record relates, or against the State or political subdivision of a State of which the law enforcement agency is an agency, in which the contents of the record are relevant to the resolution of the issues presented in the action, there shall be a rebuttable presumption that the defendant has a complete defense to the action.

“(B) SHOWING BY PLAINTIFF.—In an action described in subparagraph (A), the plaintiff may rebut the presumption of a complete defense by showing that the contents of the expunged record would not prevent the defendant from being held liable.

“(C) DUTY TO TESTIFY AS TO EXISTENCE OF RECORD.—The court in which an action described in subparagraph (A) is filed may require the plaintiff to state under oath whether the plaintiff had a juvenile record and whether the record was expunged.

“(D) PROOF OF EXISTENCE OF JUVENILE RECORD.—If the plaintiff in an action described in subparagraph (A) denies the existence of a juvenile record, the defendant may prove the existence of the record in any manner compatible with the applicable laws of evidence.

“(5) CRIMINAL AND JUVENILE PROCEEDINGS.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record under this section, a prosecutor or other law enforcement officer may disclose underlying information from the juvenile record, and the person who is the subject of the juvenile record may be required to testify or otherwise disclose information about the record, in a

criminal or other proceeding if such disclosure is required by the Constitution of the United States, the constitution of a State, or a Federal or State statute or rule.

“(6) BACKGROUND CHECKS.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record under this section, in the case of a background check for law enforcement employment or for any employment that requires a government security clearance, the person who is the subject of the juvenile record may be required to disclose underlying information from the record.

“(7) DISCLOSURE TO ARMED FORCES.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record under this section, a person, including a law enforcement agency that possessed such a juvenile record, may be required to disclose underlying information from the record to the Secretaries of the military departments (or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy) for the purpose of vetting an enlistment or commission, or with regard to any member of the Armed Forces.

“(8) AUTHORIZATION FOR PERSON TO DISCLOSE OWN RECORD.—A person who is the subject of a juvenile record expunged under this section may choose to disclose the record.

“(9) TREATMENT AS SEALED RECORD DURING TRANSITION PERIOD.—During the 1-year period beginning on the date on which a court orders the expungement of a juvenile record under this section, paragraphs (3) and (4) of section 5044(c) shall apply with respect to the record as if the record had been sealed under that section.

“(d) LIMITATION RELATING TO SUBSEQUENT INCIDENTS.—

“(1) AFTER FILING AND BEFORE PETITION GRANTED.—If, after the date on which a person files an expungement petition with respect to a juvenile offense and before the court determines whether to grant the petition, the person is convicted of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active criminal court proceedings or juvenile delinquency proceedings, the court shall deny the petition.

“(2) AFTER PETITION GRANTED.—If, on or after the date on which a court orders the expungement of a juvenile record of a person under subsection (b), the person is convicted of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active criminal court proceedings or juvenile delinquency proceedings—

“(A) the court that ordered the expungement shall—

“(i) vacate the order; and

“(ii) notify the person who is the subject of the juvenile record, and each entity or person described in subsection (c)(2)(A), that the order has been vacated; and

“(B) the record—

“(i) shall not be expunged; or

“(ii) if the record has been expunged because 1 year has elapsed since the date of the expungement order, shall not be treated as having been expunged.

“(e) INCLUSION OF STATE JUVENILE DELINQUENCY ADJUDICATIONS AND PROCEEDINGS.—For purposes of subparagraphs (A) and (B) of subsection (b)(1), subsection (b)(2)(C)(ix), and paragraphs (1) and (2) of subsection (d), the term ‘juvenile delinquency’ includes the violation of a law of a State committed by a person before attaining the age of 18 years which would have been a crime if committed by an adult.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 403 of title 18, United States Code, is amended by adding at the end the following:

“5044. Sealing.

“5045. Expungement.”.

(3) APPLICABILITY.—Sections 5044 and 5045 of title 18, United States Code, as added by paragraph (1), shall apply with respect to a juvenile nonviolent offense (as defined in section 5031 of such title, as amended by subsection (b)) that is committed or alleged to have been committed before, on, or after the date of enactment of this Act.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize the sealing or expungement of a record of a criminal conviction of a juvenile who was proceeded against as an adult in a district court of the United States.

SEC. 203. ENSURING ACCURACY OF FEDERAL CRIMINAL RECORDS.

(a) IN GENERAL.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

“(g) ENSURING ACCURACY OF FEDERAL CRIMINAL RECORDS.—

“(1) DEFINITIONS.—

“(A) IN GENERAL.—In this subsection—

“(i) the term ‘applicant’ means the individual to whom a record sought to be exchanged pertains;

“(ii) the term ‘high-risk, public trust position’ means a position designated as a public trust position under section 731.106(b) of title 5, Code of Federal Regulations, or any successor regulation;

“(iii) the term ‘incomplete’, with respect to a record, means the record—

“(I) indicates that an individual was arrested but does not describe the offense for which the individual was arrested; or

“(II) indicates that an individual was arrested or criminal proceedings were instituted against an individual but does not include the final disposition of the arrest or of the proceedings if a final disposition has been reached;

“(iv) the term ‘record’ means a record or other information collected under this section that relates to—

“(I) an arrest by a Federal law enforcement officer; or

“(II) a Federal criminal proceeding;

“(v) the term ‘reporting jurisdiction’ means any person or entity that provides a record to the Attorney General under this section; and

“(vi) the term ‘requesting entity’—

“(I) means a person or entity that seeks the exchange of a record for civil purposes that include employment, housing, credit, or any other type of application; and

“(II) does not include a law enforcement or intelligence agency that seeks the exchange of a record for—

“(aa) investigative purposes; or

“(bb) purposes relating to law enforcement employment.

“(B) RULE OF CONSTRUCTION.—The definition of the term ‘requesting entity’ under subparagraph (A) shall not be construed to authorize access to records that is not otherwise authorized by law.

“(2) INCOMPLETE OR INACCURATE RECORDS.—The Attorney General shall establish and enforce procedures to ensure the prompt release of accurate records exchanged for employment-related purposes through the records system created under this section.

“(3) REQUIRED PROCEDURES.—The procedures established under paragraph (2) shall include the following:

“(A) INACCURATE RECORD OR INFORMATION.—If the Attorney General determines that a record is inaccurate, the Attorney General shall promptly correct the record, including by making deletions to the record if appropriate.

“(B) INCOMPLETE RECORD.—

“(i) IN GENERAL.—If the Attorney General determines that a record is incomplete or cannot be verified, the Attorney General—

“(I) shall attempt to complete or verify the record; and

“(II) if unable to complete or verify the record, may promptly make any changes or deletions to the record.

“(ii) LACK OF DISPOSITION OF ARREST.—For purposes of this subparagraph, an incomplete record includes a record that indicates there was an arrest and does not include the disposition of the arrest.

“(iii) OBTAINING DISPOSITION OF ARREST.—If the Attorney General determines that a record is an incomplete record described in clause (ii), the Attorney General shall, not later than 10 days after the date on which the requesting entity requests the exchange and before the exchange is made, obtain the disposition (if any) of the arrest.

“(C) NOTIFICATION OF REPORTING JURISDICTION.—The Attorney General shall notify each appropriate reporting jurisdiction of any action taken under subparagraph (A) or (B).

“(D) OPPORTUNITY TO REVIEW RECORDS BY APPLICANT.—In connection with an exchange of a record under this section, the Attorney General shall—

“(i) notify the applicant that the applicant can obtain a copy of the record as described in clause (ii) if the applicant demonstrates a reasonable basis for the applicant's review of the record;

“(ii) provide to the applicant an opportunity, upon request and in accordance with clause (i), to—

“(I) obtain a copy of the record; and

“(II) challenge the accuracy and completeness of the record;

“(iii) promptly notify the requesting entity of any such challenge;

“(iv) not later than 30 days after the date on which the challenge is made, complete an investigation of the challenge;

“(v) provide to the applicant the specific findings and results of that investigation;

“(vi) promptly make any changes or deletions to the records required as a result of the challenge; and

“(vii) report those changes to the requesting entity.

“(E) CERTAIN EXCHANGES PROHIBITED.—

“(i) IN GENERAL.—An exchange shall not include any record—

“(I) except as provided in clause (ii), about an arrest more than 2 years old as of the date of the request for the exchange, that does not also include a disposition (if any) of that arrest;

“(II) relating to an adult or juvenile non-serious offense of the sort described in section 20.32(b) of title 28, Code of Federal Regulations, as in effect on July 1, 2009; or

“(III) to the extent the record is not clearly an arrest or a disposition of an arrest.

“(ii) APPLICANTS FOR SENSITIVE POSITIONS.—The prohibition under clause (i)(I) shall not apply in the case of a background check that relates to—

“(I) law enforcement employment; or

“(II) any position that a Federal agency designates as a—

“(aa) national security position; or

“(bb) high-risk, public trust position.

“(4) FEES.—The Attorney General may collect a reasonable fee for an exchange of records for employment-related purposes through the records system created under this section to defray the costs associated with exchanges for those purposes, including any costs associated with the investigation of inaccurate or incomplete records.”

(b) REGULATIONS ON REASONABLE PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry out sec-

tion 534(g) of title 28, United States Code, as added by subsection (a).

(c) REPORT.—

(1) DEFINITION.—In this subsection, the term “record” has the meaning given the term in subsection (g) of section 534 of title 28, United States Code, as added by subsection (a).

(2) REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of subsection (g) of section 534 of title 28, United States Code, as added by subsection (a), that includes—

(A) the number of exchanges of records for employment-related purposes made with entities in each State through the records system created under such section 534;

(B) any prolonged failure of a Federal agency to comply with a request by the Attorney General for information about dispositions of arrests; and

(C) the numbers of successful and unsuccessful challenges to the accuracy and completeness of records, organized by the Federal agency from which each record originated.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 165—RECOGNIZING THE WORK OF FEDERAL LAW ENFORCEMENT AGENCIES, CONDEMNING CALLS TO “DEFUND” THE DEPARTMENT OF JUSTICE AND THE FEDERAL BUREAU OF INVESTIGATION, AND REJECTING PARTISAN ATTEMPTS TO DEGRADE PUBLIC TRUST IN LAW ENFORCEMENT AGENCIES

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 165

Whereas, on April 5, 2023, former President Donald J. Trump (referred to in this preamble as the “former President”) called for Congress to defund the Department of Justice and the Federal Bureau of Investigation;

Whereas congressional allies of the former President have agreed that Congress should limit funding for the Department of Justice and the Federal Bureau of Investigation;

Whereas this baseless broadside against Federal law enforcement agencies is just the latest subjugation of law and justice to the parochial legal and political goals of the former President and his allies;

Whereas the United States is a nation of laws, bound together by the simple principle that no person is above those laws, not even a former president;

Whereas Federal law enforcement agencies, led by the Department of Justice and the Federal Bureau of Investigation, work tirelessly every day to promote the general welfare and pursue justice in the United States;

Whereas the Department of Justice and the Federal Bureau of Investigation work every day to investigate and prosecute offenses involving sex trafficking, child pornography, terrorism, violent crime, money laundering, cybercrime, fraud, and much more;

Whereas Congress must reject calls to compromise the safety, livelihood, and well-being of individuals in the United States in an effort to shield select political leaders from accountability;

Whereas a failure to reject partisan efforts to “defund” Federal law enforcement agen-

cies will endanger individuals in the United States;

Whereas, in fiscal year 2022, the Department of Justice and the Federal Bureau of Investigation—

(1) investigated and prosecuted 490 defendants for terrorism and secured the convictions of 280 defendants;

(2) investigated and prosecuted 19,107 defendants for violent crime and secured the convictions of 17,924 defendants;

(3) investigated and prosecuted 1,164 defendants for money laundering and secured the convictions of 1,350 defendants; and

(4) investigated and prosecuted 680 defendants for healthcare fraud and secured the convictions of 477 defendants;

Whereas, in fiscal year 2022, the Department of Justice and the Federal Bureau of Investigation returned \$476,677,364 in assets to victims; and

Whereas law-abiding individuals across the United States depend on the good work of the Department of Justice and the Federal Bureau of Investigation to promote public safety and the general welfare: Now therefore, be it

Resolved, That the Senate—

(1) recognizes and appreciates the dedication and devotion demonstrated by the men and women of Federal law enforcement agencies who keep the communities of the United States and the United States safe;

(2) condemns calls to “defund” the Department of Justice and Federal Bureau of Investigation; and

(3) rejects partisan attempts by former President Donald J. Trump and his allies to degrade public trust in Federal law enforcement agencies for attempted political or legal benefit.

SENATE RESOLUTION 166—HONORING THE EFFORTS OF THE COAST GUARD FOR EXCELLENCE IN MARITIME BORDER SECURITY

Mr. CRUZ (for himself, Mrs. BLACKBURN, Mr. SULLIVAN, Mr. BUDD, Ms. LUMMIS, Mrs. CAPITO, Mr. WICKER, Mr. RUBIO, Mr. VANCE, Mrs. HYDE-SMITH, Mr. TILLIS, Mr. YOUNG, Mr. KENNEDY, Mr. JOHNSON, and Mr. SCOTT of Florida) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 166

Whereas, since 1790, the Coast Guard has safe guarded the people of the United States and promoted national security, border security, and economic prosperity in a complex and evolving maritime environment;

Whereas the over 50,000 members of the Coast Guard—

(1) operate a multi-mission, interoperable fleet of 259 cutters, 200 fixed and rotary-wing aircraft, and over 1,600 boats;

(2) operate 9 Coast Guard Districts and 37 sectors located at strategic ports throughout the country;

(3) exercise operational control of surface and air assets vested in 2 Coast Guard geographical Areas, the Pacific and the Atlantic; and

(4) provide maritime safety and security along more than 95,000 miles of coastline of the United States, Great Lakes, inland waterways, 4,500,000 square miles of exclusive economic zone of the United States, and on the high seas;

Whereas, in fiscal year 2022, through protection of the maritime borders of the United States, the Coast Guard—

(1) interdicted over 330,000 pounds of cocaine, over 60,000 pounds of marijuana, and over 15,000 pounds of other narcotics;